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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,668	10/17/2003	Gregg L. Shetty	TN-3305	2621

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EXAMINER
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BLAKE, CAROLYN T

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/688,668	<b>Applicant(s)</b> SHEDDY ET AL.	
	<b>Examiner</b> Carolyn T Blake	<b>Art Unit</b> 3724	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2005.  
 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-65 is/are pending in the application.  
     4a) Of the above claim(s) 6-65 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-5 is/are rejected.  
 7) ☒ Claim(s) 1 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group I in the reply filed on January 26, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "78B" and "78DS" have both been used to designate a baffle.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 63S, 74S, and 116.

4. The drawings are objected to because the reference character "46" in FIG 5B should be changed to - 46' - in order to agree with the disclosure.

5. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of

any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

6. The abstract of the disclosure is objected to because legal language is used. On line 4, the term "comprising" should be modified to - -including- - or equivalent. Correction is required. See MPEP § 608.01(b).

7. The disclosure is objected to because of the following:

- Page 14, paragraph 77, line 4: "fence 41" should be changed to - -fence 41F- - in order to agree with the drawings.
- Page 22, paragraph 113, line 2: "Housing 73" should be changed to - -Housing 78- - in order to agree with the drawings.
- Page 26, paragraph 129, line 4: "housing 78M" should be changed to - -housing 78- - in order to agree with the drawings.

Appropriate correction is required.

8. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Objections***

9. Claim 1 is objected to because of the following:

- Line 9: The phrase "the motor assembly" lacks proper antecedent and should be changed to - -the motor- -.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

12. Claim 1 recites the limitation "the support assembly" in line 8. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Welch (5,906,538).

Regarding claim 1, Welch discloses a saw comprising: a base (17); a frame assembly disposed on the base (17); a first rail (14) disclosed on the frame assembly, the first rail (14) having a longitudinal axis; a table (19) slidably disposed on the first rail; a saw assembly disposed on at least one of the base and the frame assembly, the assembly comprising a motor (11), and a cutting wheel (12) driven by the motor; and a switch electrically connected to the motor and disposed on the support assembly so

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that, when the motor (11) is pivoted about the horizontal axis, the switch remains stationary. See FIG 1.

Regarding claim 2, Welch discloses the first rail (14) has a first end, and the table (199) is movable beyond the first end.

Regarding claim 3, Welch discloses the table (19) is movable beyond the base (17).

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welch as applied to claim 1 above, and further in view of Applicant's Admitted Prior Art (hereafter, AAPA). Welch fails to disclose the base (17) is formed as a tub. However, AAPA discloses a base formed as a tub to receive water and slurry created during the cutting process (page 6, paragraph 42, lines 1-2). Therefore, it would have been obvious to one of ordinary skill in the art to form the base as a tub, as disclosed by AAPA, on the Welch device for the purpose of collecting water and slurry created during the cutting process.

17. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welch as applied to claim 1 above, and further in view of Klingens (2,691,398). Welch fails to disclose the frame is made of aluminum. However, Klingens discloses a saw wherein

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the frame is made of aluminum. Aluminum is a good material choice for a sturdy component such as a frame because it can be easily used in casting operations. See col. 2, lines 29-34. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use aluminum for the frame, as disclosed by Klingens, on the Welch device because aluminum can be easily used in casting operations.

### ***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Small (2,747,625), Ende (2,895,515), Takacs (3,108,349), Tsao (6,263,866 and 6,679,244), Lee (6,272,961, 6,283,110, 6,508,244, and 6,672,188), Gorgol et al (6,273,081), Smith et al (6,347,624), Fuhrman et al (6,752,140) disclose a saw with a base, frame, rail, table, and saw assembly.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Friday, 8:00 AM to 5:30 PM, alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CB

February 18, 2005



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